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November 6, 2023

VIA ECF

Hon. Thomas J. McAvoy
Senior United States District Judge
United States District Court
Federal Building and U.S. Courthouse
15 Henry Street, Room 441
Binghamton, New York 13901

Re: ***National Rifle Association of America v. Cuomo*, No. 18-cv-00566-TJM-CFH**

Dear Judge McAvoy:

I represent the plaintiff, the National Rifle Association of America (“NRA”). The NRA writes to inform the Court that, on November 3, 2023, the U.S. Supreme Court granted certiorari in *NRA v. Vullo*. *See* Order List, 601 U.S. __ (Nov. 3, 2023) (attached as Exhibit A). It granted certiorari on the following question: “Does the First Amendment allow a government regulator to threaten regulated entities with adverse regulatory actions if they do business with a controversial speaker, as a consequence of (a) the government’s own hostility to the speaker’s viewpoint or (b) a perceived ‘general backlash’ against the speaker’s advocacy?” *See* Petition for Certiorari at i (attached as Exhibit B). The NRA’s certiorari petition seeks to reverse the Second Circuit’s decision dismissing the First Amendment claims against defendant Maria Vullo. *Id.* at pp. 38-39. In the event of a ruling in the NRA’s favor on the Question Presented, the case would be remanded to the Second Circuit to reevaluate the qualified immunity issue as to Vullo.

The U.S. Supreme Court’s resolution of this question will likely affect the resolution of the issues presented by Andrew M. Cuomo’s motion for judgment on the pleadings. ECF No. 381; *see also* ECF No. 391 at p. 7 (noting “the First Amendment claims against Cuomo and Vullo are intertwined”). Accordingly, the NRA respectfully asks that this Court defer ruling on that motion until the Supreme Court has issued its decision.

Respectfully,

/s/ Noah Peters

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